

REDACTED FOR PUBLIC INSPECTION

EX PARTE OR LATE FILED

March 30, 2012

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MAR 30 2012

Federal Communications Commission
Office of the Secretary

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51
Confidential – Subject to Protective Order
Notice of Oral Ex Parte Communication

Dear Ms. Dortch:

On March 14, Barry Ohlson of Cox Enterprises, Inc. and the undersigned, both representing Cox Communications, Inc. ("Cox"), met with Michael Steffen of Chairman Genachowski's office and Travis Litman of the Wireline Competition Bureau to discuss issues relating to the rules governing originating access services for calls originated or terminated using voice over Internet Protocol facilities ("TDM-VoIP originating access").

During the meeting, Cox noted that the Commission's *USF/ICC Transformation Order* was clear on its face as to the rates to be applied to TDM-VoIP originating access after the effective date of the order, and that the applicable rate is the interstate rate.¹ Cox

¹ Connect America Fund, *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 *et al.*, FCC 11-161 (rel. Nov. 18, 2011) (the "*USF/ICC Transformation Order*"), ¶¶ 942 ("We . . . decline to adopt an asymmetric approach that would apply VoIP-specific rates for only IP-originated or only IP-terminated traffic, as some commenters propose."), 943 ("Default charges for 'toll' VoIP-PSTN traffic will be equal to interstate access rates applicable to non-VoIP traffic, both in terms of the rate level and rate structure."), 962 ("We therefore permit LECs to file tariffs that provide that . . . toll VoIP-PSTN traffic will be subject to charges not more than originating and terminating interstate access rates.") (footnotes omitted).

explained that it has been collecting originating access revenues since it began providing voice service fifteen years ago, and has collected originating access on both TDM-based and IP-based services during that time. As a consequence, the impact of the adoption of that rate is to reduce Cox's originating access revenues by approximately [REDACTED].

While Cox was willing to accept this reduction in the context of the broader order and because the order treated all TDM-VoIP originating access equally, Cox explained it is willing to support either retention of the current rule or a modification of the rule that permits intrastate rates to be applied to all intrastate TDM-VoIP originating access, regardless of the nature of the technology used by the access provider.² Cox noted that it is critical to maintain the parity provided in the current rule, and that it would be inappropriate to modify the rule adopted in the order to treat carriers that originate traffic in TDM format differently than carriers that originate traffic in IP format. Among other concerns, adopting a rule that provided higher levels of compensation for TDM-originated TDM-VoIP originating access would discourage carriers from making the transition from TDM to IP-based services, contrary to the Commission's goals.

Cox also noted that market forces place constraints on originating access rates, particularly for carriers that, like Cox, offer equal access. Under equal access, because customers are permitted to choose their long distance carriers, there is competitive pressure on access providers not to impose unreasonable rates.

During the meeting, the participants also discussed the extent to which there are any constraints on the ability of the Commission to apply any modified originating access rate to both both incumbent carriers and voice over IP providers. The Cox participants noted that the Commission had adopted rules that set a single rate to be used by both TDM and voice over IP providers for TDM-VoIP originating access. The Commission therefore is not barred from changing the rate for both types of providers in response to a request from one type of provider. In fact, it has not been asked to reconsider the adoption of a single rate, so there is no basis to eliminate the current parity between the two types of providers.

This notice of ex parte communication includes confidential information concerning Cox's revenues from originating access service that was provided during the meetings and that is subject to the Protective Order adopted in this proceeding.³ Consequently, an original of the confidential version of this notice is being submitted to

² See Letter of Kathleen Abernathy, *et al.* Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 *et al.* (Mar. 8, 2012) (describing support of eight parties, including two trade associations, for capping intrastate originating access rates for VoIP-PSTN traffic at the rates in effect prior to December 29, 2011).

³ Developing a Unified Intercarrier Compensation Regime; Establishing Just and Reasonable Rates for Local Exchange Carriers; Connect America Fund; High-Cost Universal Service Support; A National Broadband Plan for Our Future, *Protective Order*, CC Dkt. No. 01-92, WC Dkt. Nos. 07-135, 10-90, & 05-337, GN Dkt. No. 09-51, DA 10-1749 (rel. Sept. 16, 2010) ("Protective Order").

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the Secretary's Office on this date and two copies of the confidential version of this notice are being provided to Daniel Ball in the Wireline Competition Bureau. Cox also is submitting a redacted version of this notice to the Secretary's office and to the Commission participants. In accordance with the requirements of Section 1.1206 of the Commission's Rules, this notice is being filed with the Commission within two business days of the meetings that are disclosed herein.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J.G. Harrington", is positioned above the printed name.

J.G. Harrington

Counsel to Cox Communications, Inc.

cc: Christine Kurth
Travis Litman
Daniel Ball*

*2 copies of confidential version; 1 copy of redacted version.

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